



U.S. Department of Justice

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November 26, 2024

BY ECF

The Honorable Arun Subramanian
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Sean Combs*, 24 Cr. 542 (AS)

Dear Judge Subramanian:

The Government respectfully submits this letter in further response to the Court's inquiry during the November 22, 2024 bail hearing regarding the applicability of *United States v. Boustani*, 932 F.3d 79 (2d Cir. 2019) to the defendant's proposed conditions of release. *See* Tr. at 7-8, 12-13. After reviewing the transcript, the Government recognizes that it may have misunderstood the Court's initial questions. To clarify, as set forth in the Government's opposition briefing and at the hearing, the Government is seeking the defendant's detention based on his danger to the community, including the serious risk of obstruction of justice he poses, as well as the defendant's risk of flight. Because the Government does *not* seek detention based only on risk of flight relying "primarily on [the defendant's] personal wealth," *Boustani*'s holding applies here: "the defendant is not permitted to avoid [detention] by relying on his own financial resources to pay for a private jail." 932 F.3d at 83. *See also* Tr. at 12-13 (the Government relies on "many other bas[e]s . . . besides the defendant's wealth"). Conversely, the holding of *United States v. Sabhnani*, 493 F.3d 63 (2d Cir. 2007) is inapplicable. As the Second Circuit in *Boustani* clarified, *Sabhnani* applies only in "limited circumstances" where "the defendant is deemed to be a flight risk primarily because of his wealth." 932 F.3d at 82. The conditions proposed by the defendant are therefore barred under *Boustani*, as they amount to a "two-tiered" system which is precluded under the Bail Reform Act. *Id.*

The Government sincerely apologizes for any inadvertent miscommunication to the Court in response to Your Honor's questions at the hearing regarding this issue.

Respectfully submitted,

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